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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,670	08/19/2003	Roland Schnabel	4965-000158	5757

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

GEHMAN, BRYON F

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,670

Applicant(s)

SCHNABEL ET AL.

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3728

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1, 3-4, 6, 8-9, 11-12, 14, 16, 18-19, 21 and 23 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Dunford et al. (2003/0024887). Dunford et al. disclose a container (100) for receiving plates having a sensitive surface (magnetic or optical discs), the container comprising a container part (between covers 150 and 180 or 350 and 380) having a cavity enclosed by four walls (as shown) and a bottom (as shown), a removable cover (150 or 350), guide grooves (108) located on opposing walls, and a flexible tongue (158 or 358) integral with the cover, the flexible tongue configured as a free standing element being connected to the cover only at one end and protruding from the cover defining a free space between the tongue and the cover, the flexible tongue biased into the direction of the bottom to exert a pressure against received plates to secure the plates.

As to claims 3-4, 11-12 and 18-19, disclosed is a homopolymeric polypropylene (section 0024).

As to claims 6, 14 and 21, disclosed is locking means (section 0025) to secure the cover to the container part.

As to claims 8 and 23, a ridge or bottom flexible element (190 or 390) is disclosed.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-9, 11-16 and 18-23 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Chess et al. (5,674,456) in view of Dunford et al.. Chess et al. discloses a container for receiving plates, the container comprising a container part (70) having a cavity enclosed by four walls (72a-d) and a bottom (as shown), a removable cover (80), and guide grooves (between ribs 76 and ribs 77) located on opposing walls. Dunford et al. disclose a container for receiving plates including a flexible tongue (158 or 358) integral with the cover, the flexible tongue configured as a free standing element being connected to the cover only at one end and protruding from the cover defining a free space between the tongue and the cover, the flexible tongue biased into the direction of the bottom to exert a pressure against received plates to secure the plates. To modify the container of Chess et al. employing the tongue teaching of Dunford et al.

would have been obvious in order to secure plates within the container, as suggested by Dunford et al..

As to claims 3-4, 11-12 and 18-19, Dunford et al. disclose a homopolymeric polypropylene (section 24).

As to claims 5, 13 and 20, Chess et al. discloses a film hinge (82).

As to claims 6, 14 and 21, Chess et al. discloses locking means (90).

As to claims 7, 15 and 22, Chess et al. discloses a circumferentially closed wall section (85).

As to claims 8, Chess et al. discloses a ridge (see Figure 8).

As to claim 23, Dunford et al. disclose a flexible bottom element (190 or 390).

5. Claims 1, 3-4, 6-9, 11-12, 14-16, 18-19 and 21-23 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi (4,747,488) in view of Dunford et al.. Kikuchi discloses a container for receiving plates, the container comprising a container part (2) having a cavity enclosed by four walls (as shown) and a bottom (4), a removable cover (3), and guide grooves (25) located on opposing walls. Dunford et al. disclose a container for receiving plates including a flexible tongue (158 or 358) integral with the cover, the flexible tongue configured as a free standing element being connected to the cover only at one end and protruding from the cover defining a free space between the tongue and the cover, the flexible tongue biased into the direction of the bottom to exert a pressure against received plates to secure the plates. To modify the container of Kikuchi employing the tongue teaching of Dunford et al. would have

Art Unit: 3728

been obvious in order to secure plates within the container, as suggested by Dunford et al..

As to claims 3-4, 11-12 and 18-19, Dunford et al. disclose a homopolymeric polypropylene (section 24).

As to claims 6-7, 14-15 and 21-22, Kikuchi discloses locking means and a circumferentially closed wall section (column 2, line 60 through column 3, line 14).

As to claims 8 and 23, a ridge or bottom flexible element (190 or 390) is disclosed by Dunford et al..

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Dunford et al. disclose freestanding elements as now claimed.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

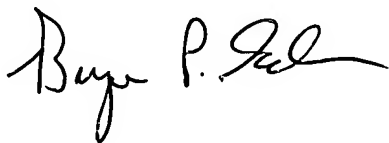
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG